

**From:** [Morgan, Jeanette](#)  
**Subject:** FW: Pesticides & Toxic Substances Law News for June 4, 2018  
**Date:** Tuesday, June 5, 2018 6:43:00 AM  
**Attachments:** [image008.png](#)

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## Pesticides & Toxic Substances Law News for June 4, 2018

**Bloomberg  
Environment**

Environment & Energy

### Highlights

#### LEADING THE NEWS

##### [EPA Proposes Asbestos Limits, Releases Risk Plans for 10 Chemicals](#)

By Pat Rizzuto

Products such as adhesives, pipeline wrap, and other goods that contain asbestos can only be manufactured or imported if they get EPA approval, the agency said in proposed rule released June 1.

#### TODAY'S NEWS

##### [Advisers to Ask Pruitt to Slow Down on EPA Science Rule](#)

By David Schultz

The independent scientists who advise the EPA will formally ask the agency to slow down making changes to the types of scientific studies it can use, but how strongly they will make their case remains to be seen.

##### [Big Shortfall Seen in Specialty Chemicals Registered in EU](#)

By Stephen Gardner

The number of specialty chemicals registered with the European Union was less than half of what the bloc expected, but chemical companies like BASF SE say they aren't worried

supply chains will be affected.

## **THURSDAY NIGHT WRAPUP**

### **Almost Half of Japanese Mercury Handlers Face New Reporting**

By Brian Yap

Japan's new reporting requirements for mercury will affect nearly half of all business entities that keep or use the toxic metal, regulators say.



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## **Latest News**

### **EPA Strengthens Internal Review Of Science Rule As SAB Seeks Scrutiny**

Top EPA officials have decided to strengthen the internal agency review of Administrator Scott Pruitt's controversial proposed rule requiring the use of publicly available research to justify rules just as the agency's Science Advisory Board (SAB) voted unanimously to review the measure amid broad criticisms.

### **EPA Narrows Scope Of First 10 TSCA Assessments, Drawing Criticisms**

EPA is further narrowing its approach for assessing the risks of the first 10 "existing" chemicals it is reviewing for possible regulation under the new Toxic Substances Control Act (TSCA), issuing problem formulation documents that preclude consideration of risks that other agency programs are already addressing.

### **Congress Appears Unlikely To Require DOD Comply With State PFAS Limits**

Congress appears unlikely to require the Defense Department (DOD) to comply with state cleanup standards for perfluorinated chemicals in pending fiscal year 2019 defense authorization legislation in the absence of an EPA standard despite efforts by some lawmakers to include language mandating such compliance.

## **Daily Feed**

### **Senate Democrats seek IG inquiry into Pruitt's house hunting**

Top Democratic senators are seeking an investigation into whether Administrator Scott Pruitt violated federal regulations when one of his top aides searched for housing on his behalf.

### **Ewire: Pruitt touts Trump's support amid ethics scandals**

EPA Administrator Scott Pruitt says that he has President Donald Trump's support despite a slew of recent ethics scandals and a looming IG report.

## **PEER claims ethics violations in Pruitt defense fund**

A whistleblower group says EPA Administrator Scott Pruitt's legal defense fund seems "calculated to give the appearance of taking untoward gifts," and calls for investigations into its structure and donors.

Greenwire



AN E&E NEWS PUBLICATION

## **CHEMICALS**

### **EPA moves to regulate past asbestos products, limit reviews**

[Corbin Hiar](#), E&E News reporter

Published: Friday, June 1, 2018



EPA has proposed a regulation on asbestos. Alpha/Flickr

EPA today moved to make it harder for phased-out asbestos products to return to the market and took another step toward evaluating existing uses of the cancer-causing mineral and nine other dangerous chemicals.

The agency's action on asbestos would apply only to some building materials and industrial products that historically contained asbestos. If companies wanted to resume manufacturing or importing such products, they'd need to get approval from EPA first.

"Those uses that EPA believes are currently ongoing" wouldn't be affected by the proposed rule, the agency said in a [notice](#) that will be published soon in the *Federal Register*. That means asbestos can still be used in industrial processes by chemical, oil, automotive and cement companies.

The health risks posed by existing uses of asbestos — a known human carcinogen that is prized for its fire-resistant properties — will be evaluated as part of the agency's broader review of the mineral under the overhauled Toxic Substances Control Act, the notice said.

EPA also released so-called problem formulation documents for the other nine priority chemicals that the agency is preparing to consider the dangers of under the new TSCA.

"These actions provide the American people with transparency and an opportunity to comment on how EPA plans to evaluate the ten chemicals undergoing risk evaluation, select studies, and use the best available science to ensure chemicals in the marketplace are safe," EPA Administrator Scott Pruitt said in a news release. "At the same time, we are moving forward to take important, unprecedented action on

asbestos."

The problem formulations refined the previously released scoping documents for the chemicals, based on comments the agency had received since then. Comments on the formulations will then guide the drafting of the risk evaluation frameworks for each chemical.

Public health advocates believe EPA is inappropriately limiting its health reviews of chemicals to avoid considering the impacts of those already in the environment. But the agency hasn't been swayed by their pushback.

In response to [comments](#), EPA said it believes TSCA requires the agency to "conduct risk evaluations and any corresponding risk management to focus on uses for which manufacturing, processing, or distribution in commerce is intended, known to be occurring, or reasonably foreseen to occur (i.e., is prospective or on-going), and consequently does not generally intend to evaluate the risks associated with legacy uses, associated disposal, and legacy disposal."

That means the agency won't consider the dangers posed by, for example, asbestos-containing tiles, adhesives and piping in millions of homes and commercial buildings nationwide.

The agency also rejected public health advocates' calls for it to consider the impacts of all exposures to the chemicals it is reviewing.

"Cumulative exposure is not required under the statute," the agency said. "EPA retains the discretion to conduct a cumulative assessment but has not yet determined whether to do so for any of the first 10 risk evaluations. However, EPA may ultimately determine that for a certain chemical or category, a cumulative exposure assessment is appropriate for certain endpoints."

Public health advocates are likely to be disappointed, as well, by EPA's problem formulations for trichloroethylene (TCE) and n-methylpyrrolidone (NMP), two of the other first 10 chemicals.

At the end of the Obama administration, EPA moved to prohibit the manufacture, import, processing and distribution of the carcinogenic TCE in degreasing and dry cleaning operations, the chemical's two primary uses in the United States. It also proposed a ban on methylene chloride and NMP for most commercial paint and coating-removal applications. NMP is a suspected carcinogen, and methylene chloride has been linked to dozens of deaths from acute exposure.

Pruitt vowed to finalize the rule restricting commercial sales of methylene chloride, which is also being evaluated under TSCA, after pressure from Republican lawmakers and families who lost young men to the paint-stripping chemical ([Greenwire](#), May 10).

But EPA has decided to re-evaluate the proposed restrictions on "TCE and NMP in the risk evaluation," the agency said today. "EPA is including these conditions of use so that they are part of EPA's determination of whether TCE and NMP presents an unreasonable risk 'under the conditions of use.'"

The six other chemicals for which problem formulations were released today are 1,4-dioxane, 1-bromopropane, carbon tetrachloride, cyclic aliphatic bromide cluster, pigment violet 2, and tetrachloroethylene, which is also known as perchloroethylene.

## **EPA**

### **Agency could move rules before science board weighs in**

[Sean Reilly](#), E&E News reporter

Published: Friday, June 1, 2018





EPA headquarters in Washington. EPA/Flickr

An EPA official acknowledged this morning that the agency could advance a number of high-profile rulemakings even as an outside advisory panel finds that the underlying science is inadequate. "It is" possible, Thomas Brennan, acting head of the Science Advisory Board staff office, told reporters when asked whether the panel could in some cases tell EPA to "stop." But, Brennan added, it is "equally likely the board would be happy with the science underpinnings." The 44-member panel, made up of academic experts, industry representatives and others, voted yesterday to look at a number of EPA regulatory actions, including some related to greenhouse gases and vehicle fuel efficiency standards ([Climatewire](#), June 1). While uncertain how long the reviews will take, Brennan said, "It's not years." He declined to comment on concerns raised yesterday by some board members about difficulties in getting information from EPA. The board's two-day meeting was set to conclude today.

*Reporter Corbin Hiar contributed.*

## ADVOCACY

### Center for Biological Diversity launches political arm

[Nick Bowlin](#), E&E News reporter

Published: Friday, June 1, 2018

The prominent Arizona-based environmental group Center for Biological Diversity yesterday debuted an arm dedicated to electoral politics.

The new Center Action Fund will focus on electing candidates that share the group's environmental protection and conservation values in federal, state and local races around the country.

"We seek to strengthen our core environmental laws, support lawmakers from all political parties that believe in a healthier environment, and to hold accountable any politician regardless of party who does not," the group's website says.

The Center Action Fund made its first endorsements yesterday.

In New Mexico, water attorney Xochitl Torres Small received the group's backing in the 2nd District's Democratic primary. The fund picked Garrett VeneKlasen for public lands commissioner.

In Nevada, the group is supporting Chris Giunchigliani, one of the two Democratic gubernatorial front-runners, as well as a handful of local officials.

CBD launched the fund under Section 501(c)(4) of the U.S. tax code. That's the common listing for politically active nonprofits.

Such groups have become major political forces and the primary sources of outside spending since the *Citizens United* Supreme Court ruling.

These groups can take in unlimited contributions from corporations or other groups. They do not have to disclose their donors and are often criticized by transparency and good-government organizations.

## EPA

### Oversight committee to interview more Pruitt aides

[Kevin Bogardus](#), E&E News reporter

Published: Friday, June 1, 2018



Samantha Dravis arriving at Trump Tower with Scott Pruitt in December 2016. Pruitt was Oklahoma's attorney general at the time. Andrew Harnik/Associated Press

The House Oversight and Government Reform Committee continues to move forward with its investigation of EPA during Administrator Scott Pruitt's tenure.

Committee staff have interviews scheduled with Samantha Dravis, who formerly ran EPA's policy shop under Pruitt, as well as Chief of Staff Ryan Jackson later this month, a Republican committee aide told E&E News.

The aide noted that as part of the EPA investigation, panel staff have already interviewed Sarah Greenwalt, a senior adviser to Pruitt, and Millan Hupp, his scheduling director, as well as Pasquale "Nino" Perrotta, the career EPA special agent who led Pruitt's security detail and has since retired.

EPA also continues to provide documents to the committee on a rolling basis, the aide said.

Greenwalt and Hupp have both attracted scrutiny after they were given substantial pay raises under the Safe Drinking Water Act's unique hiring authority. Those raises were made against White House wishes and have since been reversed.

Senate Democrats have also asked the EPA inspector general to review whether Hupp — considered a friend of Pruitt and his wife and who worked as a campaign aide when Pruitt was Oklahoma attorney general — helped the EPA chief find new housing during work hours. Pruitt has said Hupp's help with finding him housing occurred on her own time as far as he is aware ([E&E News PM](#), May 31).

Committee staff have also been in touch with Kevin Chmielewski, the former EPA deputy chief of staff for operations, and are working to schedule an interview with him as well for its investigation, according to the aide. The former EPA official has already spoken informally with panel staff in April ([E&E Daily](#), April 16). Chmielewski, a President Trump political appointee, has talked to lawmakers and the press about allegations of excessive spending by Pruitt and his aides on travel and security.

An EPA spokesman told E&E News that the agency continues to cooperate with the committee's investigation.

"We are working diligently with Chairman [Trey] Gowdy [R-S.C.] and are in full cooperation in providing the Committee with the necessary documents, receipts and witnesses to his inquiries," said EPA spokesman Jahan Wilcox.

## WISCONSIN

### Missteps plague city's lead poisoning program — report

Published: Friday, June 1, 2018

Milwaukee's lead poisoning prevention program is plagued by missteps and fails to adequately protect children, according to a damning new report from the state Department of Health Services.

Out of 108 lead poisoning cases reported to the Childhood Lead Poisoning Prevention Program, more than 90 percent were closed before it was confirmed that lead in the children's blood had fallen to safe levels, according to the draft report.

In addition, the program failed to conduct full risk assessments of potential lead hazards in the children's homes, which typically include site visits.

In around a quarter of the cases, records indicate an investigator didn't even visit the child's primary residence.

Bruce Lanphear, a health sciences expert at Simon Fraser University in British Columbia, said Milwaukee residents should "absolutely" be concerned about the report's findings.

"Clearly, there are problems within the program itself in terms of following through with children who have clear-cut lead poisoning," Lanphear said.

The city's interim Health Commissioner Patricia McManus said in a statement, "I concur with the findings of the state's audit of the City of Milwaukee Health Department's Childhood Lead Poisoning Prevention Program (CLPPP).

"The health and safety of the children in Milwaukee must be our first concern. I remain committed to working with the state to improve our lead program and ensure we are in compliance with state laws and obligations" (Bice/Spicuzza, [Milwaukee Journal Sentinel](#), May 31). — MJ

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